port that an opportunity to slip in might present itself, or if she approach a blockaded port to take a pilot for a neighboring port, or if she appear before a blockaded port for the alleged purpose of inquiry there is a breach of the blockade. *The Gute Erwartung*, 6 C. Rob. Adm. 182; *The Charlotta Christine*, 6 C. Rob. Adm. 101; *The Cheshire*, 3 Wall. 235. Thus the decision reached in the principal case, although the acts are extreme, is well founded upon authority. The position of the "Newfoundland" in loitering four night hours within ten miles of a blockaded port near enough to signal the shore and watch an opportunity to slip in was in itself an act of breach of the blockade and gave rise to a *primâ facie* presumption of guilty intent. And as no innocent explanation of her acts was proved, the condemnation was entirely proper. If blockade is to be maintained to-day, the law must be stricter for a steamer than it was for the sailing ship in the past.

FORGED INDORSEMENTS OF NEGOTIABLE INSTRUMENTS. — A notable instance of the effect of equitable principles upon the law of negotiable instruments was the decision by Lord Mansfield in the case of *Price* v. *Neal*, 3 Burr, 1354. In that case the defendant was an indorsee of a bill for value in due course, and was without notice that the signature of the drawer was a forgery. In like ignorance the plaintiff, who was the drawee, paid the face value of the bill to the defendant. On learning the facts, he sought to recover back the amount paid by him. The court, in holding that no recovery could be had, said "there is no reason to throw off the loss from one innocent man upon another innocent man." Courts have almost universally supported the decision as well as the principle on which it rests, namely, that when two innocent parties have been thus defrauded, one will not be deprived of the legal title to the money which he has received in order that the other may be made whole. See the article by Professor Ames, 4 HARVARD LAW REVIEW, 297.

There is, however, a well recognized distinction between this and another class of cases, which is illustrated by a recent decision of the Supreme Court of Nebraska. *First Nat. Bank* v. *Farmers' & Merchants' Bank*, 76 N. W. Rep. 430. There a loan company was induced by the fraudulent representations of an agent to draw a check payable to a person who was in fact non existent. The agent received the check for delivery to the ostensible payee, but forged the name of the payee and made delivery to the defendant, who then collected the amount of the check from the bank on which it was drawn. The court held that the bank could recover back the amount, although the defendant paid value for the check and received it in good faith. Here the court was, as in *Price* v. *Neal*, *supra*, dealing with two innocent parties. Yet there is this difference. In this case the check remained the property of the drawer until delivery should be made by the agent to the person intended as payee; upon the transfer, therefore, to the defendant under the forged indorsement, the latter became liable to the true owner, the drawer, for a conversion of the check; however innocent, he was a wrongdoer. The money thereafter received by him in dealing with the property of the drawer was wrongfully gained, and he became a constructive trustee for the drawer. Now, if the drawer in this case had been an indorsee in due course and had been so deprived of his property, he could still have recovered against the drawee, since the fact that payment was made to the wrong person

would be no defence. Then the drawee would have been entitled to be subrogated to his rights as *cestui que trust* against the converter. Here, however, the drawer had no right of action against the drawee. Can, then, the doctrine of subrogation be applied? It may be objected that it cannot; that in order to be subrogated to the right of the drawer against the converter, the drawee must first have paid the equivalent of that claim to the drawer. Yet it is clear that this drawer cannot retain his claim as *cestui que trust*. He cannot both be enriched by the amount paid by the drawee and at the same time refuse to give the latter allowance for the amount on account. Therefore the term "subrogation" seems to have an appropriate application here in a broader sense, namely, that when one person has an equitable right to which another is entitled, that other should have the right on grounds of natural justice. The result is reached, as in the principal case, by courts of law allowing a direct action to recover back the money paid; yet, on principle, the right of the drawee is an equitable one to be placed in the position of *cestui que trust*, so that he may then sue the wrongdoer.

SEALED VERDICTS. — Even in the early development of the trial by jury, the idea existed that the jury should be left absolutely to themselves in their final consideration and decision. To insure this privacy the old oath administered to the bailiff read, "you shall keep this jury without meat, drink, fire, or candle, you shall suffer none to speak to them, neither shall you speak to them yourself."

In that older and most summary justice the work of the juries was less arduous, yet for their ease was introduced the device of the privy verdict. When a court adjourned while the jury was still out the jury might, on reaching an agreement, reduce their verdict to writing, seal it, leave it with an appointed officer, eat and separate, to reassemble at the opening of the court to give a final oral verdict. This expedient, though mentioned as early as Rolle's Abridgement, p. 712, was rare, and never used in trials of felony. In the modern practice, particularly in this country, it has been far more common. In almost all the States, in all cases, civil or criminal, except capital, either by statute, by agreement of the parties, or sometimes by order of the court without agreement, the jury may separate after a privy, or sealed, verdict as it is called here and meet again to affirm it at the next court-day.

The important question is as to the legal effect of that sealed verdict. In the old law it was clearly a mere nullity. When the jury came together again, the beaten party, or the accused, had a right to ask the decision of each juror separately, poll them, as it is called, just as in the ordinary case, and their answers, if unanimous, were the final verdict. They might well dissent from or change their privy verdict, — it was simply a device for their comfort. *Saunders* v. *Freeman*, 1 Plowd. 209. But it is not clear whether the effect of the modern sealed verdict is the same. The question was squarely raised in the recent case of *The People* v. *McLaughry*, Chicago Law Journal, Dec. 2, 1898. There no verdict was given in open court and a sentence was passed on the sealed verdict. It was argued that the prisoner by consenting to a sealed verdict waived his right to the oral one, that at least the error merely gave ground for a new trial; but the Court, following the old law strictly, held that the sealed verdict amounted to nothing, that the sentence under it was abso-